

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/894,548	08/21/97	QIN	Y 7250-3

THOMAS Q. HENRY  
WOODARD EMHARDT NAUGHTON & MCNETT  
111 MONUMENT CIRCLE  
SUITE 3700  
INDIANAPOLIS, IN 46204

0211/0423

EXAMINER	
LEWIS, K	
ART UNIT	PAPER NUMBER
3761	18
DATE MAILED:	04/23/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/894,548	QIN ET AL.
	Examiner	Art Unit
	Kim K. Lewis	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 January 2001.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19-22,24,25 and 27-47 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 19-22,24,25 and 27-47 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

Art Unit: 3761

### **DETAILED ACTION**

This application has been transferred to Primary Examiner Kim M. Lewis, Art Unit 3761.

#### *Response to Amendment*

1. The amendment filed on 1/15/01 has been received. Claims 19 has been amended. Claims 40-47 have been added. Claims 19-22, 24, 25 and 27-47 are pending in the instant application.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19, 24, 30, 31, 33-35, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,183,664 ("Ansel").

The rejection of claims 19, 24, 30, 31, 33-35, 37 and 38 are discussed in the office action of paper no. 15, the entire content of which is incorporated herein by reference.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19, 20-22, 24, 27-38 and 40-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansel in view of U.S. Patent No. 5,470,625 ("Perrault").

Regarding claim 19, Ansel substantially discloses the claimed invention as discussed in the rejection of paper no. 15, of which the entire content is hereby incorporated by reference. Ansel fails to teach that the absorbent filling material has less hydrophilicity than the hydrophilic gel (second layer), the examiner contends that it is well known in the art to decrease the hydrophilicity or absorbency of wound filling material by allowing the filling material to exude rather than absorb so as to apply a medicament to the wound site. This teaching is specifically taught by Perrault.

It would have been obvious to one having ordinary skill in the art apply the teaching in Perrault so as to allow the filling material to exude rather than absorb, thus having less hydrophilicity than the hydrophilic gel layer in order to apply a medicament to the would site. *then*

The rejections of claims 20-22, 24, 27-38 are discussed in the office action of paper no. 15, the entire content of which is incorporated herein by reference.

Regarding claims 40, 45, 47, as can be read from col. 2 , lines 33-37 of Perrault, the filling material may be knitted or woven.

Art Unit: 3761

Regarding claims 41 and 46, both Ansel and Perrault fail to teach the first layer is a felt.

Absent a critical teaching, the examiner contends that the use of a felt is an obvious design choice which does not patentably distinguish applicant's invention.

Regarding claim 42, Perrault discloses the use of calcium alginate.

Regarding claims 43 and 44, both Ansel and Perrault fail to teach zinc alginate or silver alginate. Absent a critical teaching, the examiner contends that any equivalent alginate would perform equally well, and the use of any equivalent does not patentably distinguish applicant's invention.

6. Claims 25, 27 and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Ansel in view of Perrault as applied to claim 19 above, and in further view of U.S. Patent No. 5,238,685 ("Wren").

The rejection of claims 25, 27 and 39 are discussed in the office action of paper no. 15, the entire content of which is incorporated herein by reference.

*Response to Arguments*

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3761

*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Application/Control Number: 08/894548

Page 6

Art Unit: 3761

kml  
April 11, 2001

  
KIM M. LEWIS  
PRIMARY EXAMINER  
AU 3761